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## NORTH CAROLINA LAW REVIEW

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Volume 14 | Number 1

Article 11

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12-1-1935

### Book Reviews

North Carolina Law Review

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#### Recommended Citation

North Carolina Law Review, *Book Reviews*, 14 N.C. L. REV. 116 (1935).

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## BOOK REVIEWS

*The Diplomatic Protection of Americans in Mexico.* By Frederick Sherwood Dunn. New York: Columbia University Press, 1933. Pp. x, 439. \$5.00.

When Josephus Daniels, of North Carolina, accepted the Mexican mission two years ago, slightly more than a century had passed since Joel R. Poinsett, of South Carolina, went to Mexico City as our first Minister. Our turbulent neighbor to the South had in 1825 just thrown off the yoke of Spain and put on the garb of Republican institutions.<sup>1</sup> That century of American-Mexican relations has seen one war and innumerable diplomatic passages arising out of the American State Department's effort to see that American nationals received the minimum of protection of life and property supposed to be guaranteed by international law. Professor Dunn, drawing mainly on the archives of the Department, has given an impartial account of the causes of friction and has carefully analyzed, in the light of the actual facts, the reasons relied on by both governments. This examination of diplomatic correspondence and the opinions of international claims commissions discloses a striking disparity between practice and theory.

The first four chapters are historical and carry the reader down to the Dictatorship of Diaz. In the beginning, the American effort to gain the Mexican trade now first released from Spanish monopoly was hampered by our ambition to acquire Texas. At length, in 1835, Texas, now predominantly American in character, revolted and declared her independence. American sympathy with Texas had been and continued an obvious cause of friction between the two countries. The claims arbitration convention of 1839,<sup>2</sup> intended to wipe out old scores, did settle the claims, but the old suspicion and hostility remained. Payment of the awards dragged on. Texas was annexed by the United States in 1845, and shortly afterwards Secretary Buchanan sent Slidell to Mexico with offers to assume American claims against Mexico and to pay five, twenty, twenty-five millions of dollars for a boundary that would include Texas, and California in part, or as a whole. These overtures were rejected, war followed, and the Treaty of Guadalupe Hidalgo<sup>3</sup> followed the war. The United States acquired New Mexico and Cal-

<sup>1</sup> Poinsett himself left an account of Mexico at this period in his *NOTES ON MEXICO MADE IN 1822 (1825)*; and a delightful account of a slightly later period is that by the American wife of the first Spanish Minister, Mme. Calderon de la Barca, *LIFE IN MEXICO (1843)*.

<sup>2</sup> I MALLOY, *TREATIES* 1101.

<sup>3</sup> I MALLOY, *TREATIES* 1107.

ifornia for \$15,000,000 and agreed to assume all undischarged American claims arising before the 1839 Convention.<sup>4</sup>

But the treaty of '48 did not satisfy American territorial ambitions. The doctrine of "manifest destiny" had taken on new life in the United States, which had now become a continental empire. Americans began to cast about for quicker means of transit to the Pacific than those afforded by trails through the Rockies or by sea around the Horn. Public attention soon became centered on the possibility of a railroad or canal across the Isthmus of Tehuantepec in Mexico. At about the same time, it may be noted, the character of American complaints against Mexico changed; for difficulties over customs regulations, wrongful imprisonment and seizures of property began to give way to contract claims. Professor Dunn traces in a full chapter the Isthmian concessions in American hands, Gadsden's mission and his negotiation of the Treaty of 1854 for the purchase of more territory, the vain efforts of the United States to obtain settlement of increasing claims and to buy still more territory, and the rise of Juarez to power. The French intervention of 1861 and Maximilian's brief and tragic reign are summarily disposed of. A marked change in our attitude followed our Civil War. As American territorial ambitions had arisen chiefly in the slave states of the South, the resumption of American relations with Mexico in 1867 saw no further efforts to tie up claims settlements with the acquisition of more territory from Mexico. A better feeling prevailed and found expression in the Claims Convention of 1868. Within a short interval after Juarez's death Porfirio Diaz gained control of the government, just in time to meet the first payments of the awards of the Claims Commission of 1868 which fell due on January 31, 1877. A new era was at hand. The best commentary on the old is that of our minister, Mr. Foster, who in urging the recognition of Diaz reminded Mr. Evarts that in the last fifty years there had been nearly sixty changes of government in Mexico!<sup>5</sup>

Having established an historical perspective, Professor Dunn now turns to consider the specific problems of diplomatic protection, and devotes his next six chapters to forced loans and special taxes, revolutionary damages (the two main questions which retarded American recognition of Diaz), limitations on protection, denial of justice and exhaustion of local remedies, and police protection. These chapters constitute half of the book, but can be considered here, unfortunately, only in a cursory way. The forced loan generally took the form of a tax laid by a military commander on a particular town or state. While for-

<sup>4</sup> Arts. XIV, XV.

<sup>5</sup> Foster to Evarts, 28 April 1877, *MS. Desp. Mex.*, vol. 59, Dept. of State.

eigners were not openly discriminated against, their property generally bore the brunt of such levies. The United States at one time sought to have certain capital levies comprehended under the category of forced loans. The Claims Commission of 1868 took contradictory views: Umpire Lieber thought such loans illegal, Umpire Thornton thought them legal. The growing stability of the Diaz régime promising a cessation of the practice, the United States at length abandoned the issue.

Again, Mexico advanced the doctrine of non-responsibility of states for the acts of insurgents on the authority of a now celebrated but then "recent writer," Calvo. The United States did not abandon its contention, but it is significant that Thornton refused to sustain it in his Claims decisions. During this same period Mexico sought to limit the recourse of foreigners to the diplomatic protection of their own governments by legislation requiring them to "matriculate" on pain of forfeiting the "rights of foreigners." The real property laws provided that foreigners acquiring land became thereby Mexicans unless they should declare their intention at the time to retain their foreign nationality. These laws rested on the theory that an individual citizen might renounce his right to diplomatic protection although a foreign government's right to intervene on its citizens' behalf could not be abridged: a distinction which if admitted in theory would have effectively nullified in practice any diplomatic protection. The Claims Commission's decisions unfortunately showed little appreciation of the questions involved. At length in 1886 compulsory matriculation was abolished and the land law was modified by extension of the declaration period.

The author gives a very full chapter to denial of justice and its common prerequisite, exhaustion of local remedies. The abuse went back to 1825 but assumed great importance under the Diaz régime. It is unnecessary to discuss here a doctrine so familiar. Stated briefly, it is said that the claimant's failure to exhaust local remedies bars diplomatic interposition in his behalf except where the denial of justice is notorious and is *in re minima dubia* in the highest court of appeals. Professor Dunn shows by analysis of the decisions of the Claims Commission of 1868 that the rule contended for by the Mexican Government was applied only when it led to conclusions otherwise thought desirable. Subsequent diplomatic discussions, including the famous Cutting case,<sup>9</sup> are reviewed at length, and the conclusion reached that the long controversy ended favorably for the Mexican viewpoint. As time went on, however, the Mexican Government showed an increasing consideration for foreigners and causes of friction decreased. Adequate police protection

<sup>9</sup> See 2 MOORE, INT. LAW DIGEST (1906) 228.

against crimes and banditry, however, remained a frequent topic of discussion. Here Professor Dunn rightly distinguishes between "denials of justice" and the Government's failure to prosecute a criminal. He treats the latter as a failure of the police system rather than of the courts. A nice question arises here, whether mere failure to prosecute the criminal where no lack of due diligence to prevent the crime is shown, can properly be made the basis for a pecuniary award measured by the actual loss sustained.

The last quarter of the book is in some ways the most interesting. It deals with the social revolution and the rise of Mexican nationalism, with oil, agrarian reform, nationalism and the renunciation of protection, and with the work of the Claims Commissions of 1923. Unfortunately these chapters, apparently, had to be written from published sources only and do not show as clear a picture, therefore, of diplomatic relations as those which precede. Diaz's thirty-five years of power, which came to an end in 1910, gave a degree of order and security hitherto unheard of in Mexico. He was highly successful in industrializing Mexico, but the economic and social system created was largely imposed from above and was, Professor Dunn believes, ill adapted to the native peasantry, who constitute 90% of the population. During the interval between the Diaz tyranny and the new nationalism the stage was filled, of course, by the *opéra bouffe* of revolutions, Wilsonian idealism, Madero, Huerta, the American occupation of Vera Cruz, border raids, Carranza, and Villa. With his decrees of 1915 and new constitution of 1917, Carranza set in motion the new forces of reform. Article 27 of the Constitution altered the fundamental law, which had given the owner of the surface fee title full dominion over petroleum deposits, and sought to assimilate petroleum and other minerals to gold and silver, which in colonial New Spain had belonged to the Crown. Controversy was inevitable, but in 1921 the Mexican Supreme Court offered a compromise. It held that Article 27 was not intended to apply retroactively to oil lands previously acquired for their deposits or upon which the owner had performed any positive acts in assertion of his interest in the subsoil deposits: a plain piece of judicial legislation. Here the matter rested, after the Bucareli Conference of 1923, until 1925 when the Calles Government by Act of Congress undertook to nationalize all petroleum deposits regardless of the "acquired rights" doctrine, and to substitute for the fee held by foreign corporations a fifty-year concession. Again, in 1927, the Mexican Supreme Court broke the deadlock, by holding the objectionable features of the 1925 Act unconstitutional. Professor Dunn regards this settlement as a "compromise between conflicting economic interests rather

than a solution derived by purely logical processes from abstract concepts" (p. 366), a thesis which he has developed at length elsewhere.<sup>7</sup>

In 1910 the Mexican peón was in a sorry plight, resulting mainly from the efforts to impose an advanced system of private ownership of property upon a native population accustomed for centuries to a feudal system of land tenure. These efforts began with Juarez and were continued by Diaz. In the colonial era great landholders had existed side by side with the native villagers who held their land in common. The Constitution of 1857, however, forbade the holding of land by civil or ecclesiastical corporations, and in consequence much of the village communal land, instead of passing to small landholders, went to enlarge the great estates. Carranza's decree of 1915 set out to annul all transfers of communal lands. The Constitution of 1917 with its Art. 27 followed, the general design of which was to remove land and all natural resources from the domain of absolute private property and to allow the state to dictate the condition and extent of their use by individuals. Mexico's object was to preserve her resources for her own people, to rehabilitate the "forgotten man," and to limit the control of the foreigner. The American State Department, however, insisted on adequate compensation for its citizens. A compromise was reached by the Bucareli Conference in the agreement of the United States to accept federal bonds as indemnity for the "just" value of the land, the General Claims Commission to adjudicate any differences. No such claims have yet come before it.

With the growth of the nationalist spirit in Mexico came renewed pressure on foreigners to prevent their resort to the diplomatic interposition of their own governments. Mexico sought to make the ownership of land itself a bar to such resort, and also to restrict severely the ownership by corporations of rural property. In the correspondence following Mr. Kellogg's famous Aide Memoire of November 17, 1925, protesting against these laws, the State Department contended that the laws of those states of the Union which limited the disposition of property owned by aliens did not in any instance apply to rights already vested in aliens, but this assertion about its own laws, as Professor Dunn points out (pp. 387-389), was unhappily far from accurate. Perhaps the thing that aroused most American resentment, the author suggests, was the "Calvo clause" in the Alien Land Law, which required aliens having interests in Mexico to renounce their government's protection. This was, of course, an old device in the history of Mexican legislation on foreign contracts. The Mexican Government plausibly maintained

<sup>7</sup> See his PROTECTION OF NATIONALS (1932), reviewed by the present writer in (1933) 21 GEO. L. J. 521.

that a state could not be barred from protecting its nationals, but that an alien might renounce *his* right without affecting the international right of his state. But, as forfeiture of the alien's property was the penalty of violation of the clause, an alien would never seek his own government's protection unless he stood to lose all, anyway; so that the individual's waiver would pretty effectively defeat his government's right of protection. The answer, of course, is that such a waiver by an individual would be against the public policy of his government and therefore void.

A chapter analyzes the cases decided by the General and Special Claims Commissions of 1923. The General Commission first met on August 30, 1924, with a life of three years. Its term was twice extended, so that it sat theoretically seven years. In this time it disposed of only 148 claims out of a total of 3,617 filed by both governments. Of the four last years of its term, about two years were spent in squabbling over the choice of the neutral Presiding Commissioner! Two things about this Commission are of special interest: exhaustion of the claimant's local remedies was not made a prerequisite to jurisdiction, and of the 148 cases adjudicated 129 represented unanimous decisions. It is also of interest that dissenting opinions were allowed to be filed.<sup>8</sup> Professor Dunn's analysis of these decisions is interesting. The Special Commission, organized to deal exclusively with revolutionary claims, decided only 18 cases in seven years, 17 of these being the "Santa Ysabel" claims, arising on the cold-blooded murder by Villa of 15 American employees of a mining company in 1916. They were rejected by a majority of the Commission (Nielson, American Commissioner, dissenting) on the ground that Villa, who received an amnesty from the Mexican Government in 1920, was a bandit and not a revolutionist!

A final chapter draws certain conclusions, not flattering. Professor Dunn thinks that diplomatic protection has a useful function, especially as a preventive. "But," he adds (pp. 426-7), "with all due allowance for these factors, it still must be admitted that, taken as a whole, the record of the operation of diplomatic protection in the relations between the United States and Mexico has been surprisingly bad. As an institution for the peaceful solution of conflicts of interest, its accomplishments have been meager. Instead of removing or neutralizing occasions for controversy, it often seems to have generated them. One is constantly impressed with the fact that, whenever there is a definite clash of mate-

<sup>8</sup> The American Commissioner, Mr. Fred K. Nielson, has collected his majority and dissenting opinions in a single volume, with a commentary, *NIELSON, INTERNATIONAL LAW AS APPLIED TO RECLAMATIONS* (1934), reviewed by the present writer in (1934) 22 *Geo. L. J.* 880. The Commission's opinions also appear under the Government imprint (1927-1931).

rial interests, each side is quite able to derive from established legal rules and principles an answer that accords neatly with its own material interests. . . . In the light of the foregoing observations, our first conclusion must be that the law of diplomatic protection as a logical method for arriving at answers to disputes without regard to the immediate interests or relative strength of the contending parties, is consistently ineffective."

This volume is one of a series, now in progress, of Columbia University Studies in our legal-economic relations with Mexico. Professor Dunn has done his task in a thoroughly workmanlike manner. If his book is now and then tedious, and has a slightly metallic tone, it is because he has followed his documentary sources closely and without injecting too frequently his personal views. His analysis of legal arguments and cases is careful and convincing. Only one or two misprints were noted, and one curious slip where the author says "President Wilson was defeated at the polls by Harding" (p. 346).

If any excuse were needed for so extended a notice as this, it must be found in the vital importance, political, economic and social, which our Southern neighbor has for us now. A clear understanding of past controversies can do much to remove the causes of future ones, and Professor Dunn's book goes far to aid such a clear understanding.

MANGUM WEEKS.

Washington, D. C.

*A Study of the Business of the Federal Courts.* Part I, Criminal Cases. Part II, Civil Cases. The American Law Institute, Philadelphia, 1934. Pp. 153, xxxix; 217, xxvii.

The present volumes are the fruition of a project originated by the National Commission on Law Observance and Enforcement which had for its aim the study of the administration of law in the federal courts through a scientific analysis of both civil and criminal case records, with the general purpose of testing the efficiency of the administration of justice in these courts. Following the demise of the Commission in 1931, the work was carried on by the American Law Institute with financial aid from the Rockefeller Foundation. Twelve different law schools<sup>1</sup> coöperated in collecting case material in thirteen<sup>2</sup> federal jurisdictions in widely separated parts of the country. As originally planned, the field studies for the collection of data were to cover two years and were to be supplemented by several control studies to operate as checks

<sup>1</sup>Including that of the University of North Carolina. Under the supervision of Dean C. T. McCormick, the field-work was done by Messrs. Henry Bane, of the Durham Bar, and Neil Sowers, of the Statesville Bar.

<sup>2</sup>Including the Western District of North Carolina, presided over by Hon. E. Yates Webb, U. S. District Judge.

on the accuracy of the data already compiled. Due to the exigencies of time and expense, however, the scope of the project had to be somewhat restricted, with the result that the collection of data was limited to a single year and the other studies were omitted. Nevertheless, because of their thoroughness and extent, the reports present a comprehensive exhibit of statistical methods as a means of court study. They are doubtless the most detailed statistical studies in the operation of courts ever attempted in this country. The careful analysis of 35,671 criminal cases besides an additional number of 37,065 cases dealing with prohibition enforcement, and of 9,852 civil cases, is a mine of greatly needed information for which the lawyer, criminologist, political scientist and specialist in law administration will be duly grateful. The volumes should be read in conjunction with, and in the light of, the illuminating statistical picture of the activities of the Supreme Court of the United States presented by Frankfurter and Landis.<sup>3</sup>

#### PART I. CRIMINAL CASES

Judicial criminal statistics fall generally into four categories: (1) personal statistics relating to the social background of the individual defendant; (2) procedural data concerning the various methods and devices by which criminal cases are disposed of in the courts; (3) statistics with respect to punishment meted out to convicted defendants; and (4) statistics concerning the business management of courts. The present study is concerned primarily with data falling within the second and third of these divisions. Interspersed throughout with innumerable statistical charts and tables are chapters showing the types of cases coming before the courts, the quasi-criminal business on the civil dockets, the disposition of criminal cases (including the discharge of the defendant without trial, discharge of the defendant after trial, number of convictions, manner of conviction, convictions on pleas of guilty, and the guilty plea technique), the use of indictments and informations, pleas, pleadings, trials (including the number of cases brought to trial, disposition of liquor cases and non-liquor cases, comparative data on results of federal and state court trials, waiver of jury trial, extent to which juries are used, number of convictions by court and jury, and the comparative promptness with which cases are brought to trial and

<sup>3</sup> See Frankfurter and Landis, *The Supreme Court Under the Judiciary Act of 1925* (1928) 42 HARV. L. REV. 1, reviewing the 1923 to 1927 terms inclusive; *The Business of the Supreme Court at October Term, 1928* (1929) 43 HARV. L. REV. 33; *The Business of the Supreme Court at October Term, 1929* (1930) 44 HARV. L. REV. 1; *The Business of the Supreme Court at October Term, 1930* (1931) 45 HARV. L. REV. 271; *The Business of the Supreme Court at October Term, 1931* (1932) 46 HARV. L. REV. 226; *The Business of the Supreme Court at October Term, 1932* (1933) 47 HARV. L. REV. 245; *The Business of the Supreme Court at October Term, 1933* (1934) 48 HARV. L. REV. 238.

disposed of without trial) and sentences. Detached from the text are thirty-three detailed statistical tables valuable for reference purposes. Limitations of space preclude extended analysis of the survey's findings, but brief reference to some of its outstanding conclusions should indicate its value and significance.

In much of our contemporary literature and discussion adversely criticizing the "technical" nature of criminal procedure and stressing the need for "simplification," the procedural rules are held out as the sole or principal reason for the ineffectiveness of criminal law enforcement. Little heed is given to the baffling complexity of the problem of crime or the extent to which its causes are rooted in the social and economic organism. The widely publicized results of what has been euphemistically called "the sporting theory of justice" are the stock in trade of every college debater and political commentator and are usually assumed without argument: delays and continuances, irrational juries, a cumbersome grand jury, long trials, appeals on obsolete doctrinal points, ineffective judicial control of the trial, and the like. The present study fails to reveal the presence of these obstacles. Proceedings in the federal courts are expeditious, non-technical and largely uncontested. A technique of handling cases by plea of guilty came into extensive use some twenty years ago and is responsible for the prompt and efficient disposition of business. This method has been condemned as "bargaining" but it is doubtful if the system could operate without it. There is no single method of procedure which insures efficient results in such a way that they can be measured statistically. Jury trials may be the speediest method of handling cases in districts where the methods of jury trial are well understood. Grand juries are not necessarily a source of delay. The notion that most of our troubles in the administration of criminal justice lie in the so-called "sporting theory" of justice with its attendant emphasis on technicalities may well have been true in 1914 and 1915 when only 50% of all convictions were had on a guilty plea in the federal courts, and when these convictions on guilty pleas represented only 35% of all cases terminated. The change, however, since 1915 is startling as shown by this report. In 1930 the number of convictions on guilty pleas had risen to approximately 90% of all convictions. And of all cases terminated in any way (including dismissals and discontinuances) 74% were terminated on guilty pleas. This prevalence of the guilty plea technique appears to be uniform in nearly all the districts. As the report points out, "it becomes obvious that the notion of the criminal law, as something to be enforced, has in practice been superseded by the practical necessity of dealing with the individual offender in as informal a way as is consistent with public safety."<sup>4</sup>

<sup>4</sup> P. 13.

The report does not overemphasize the importance of statistics in criminal law administration. Data showing that there are more murders in proportion to the population in Chicago than in London may be very interesting, but they throw no light upon the reasons for the difference or what measures should be taken by the former city to reduce its murder rate. The report suggests the need for combining studies by trained observers with statistical investigations. "Throughout the entire report," its authors note, "situations repeatedly occur where variations and discrepancies are disclosed, but the figures furnish no data upon which they can be explained; in such cases supplementary material is needed to complete the picture."<sup>5</sup>

Nevertheless, effective public control over the criminal courts must, in the final analysis, rest on judicial statistics. The great value of statistics is to indicate the nature and magnitude of the problems that beset us and the most important topics for further and more intensive investigations. The inadequacy of available criminal statistical data in the United States, both in the states and in the federal government, has always made generalizations based upon such data exceedingly dangerous. At least so far as the federal courts are concerned, our criminal law reformers may now carry forward their work on a more solid basis of fact.

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## PART II. CIVIL CASES

The civil cases studied included only those terminated in the thirteen districts during the year from July 1, 1929 to June 30, 1930. They number 9,852. By districts, the largest numbers came from New York, Illinois and Michigan, 2,075, 1,542 and 1,521, respectively. The smallest number came from Connecticut and North Carolina, namely, 141 from each district.

Information was collected from the clerks' appearance dockets, clerks' files, judgment dockets, judgment files and card indexes, showing identification, type and origin of each case; basis of and objections to jurisdiction; residences of parties; when, how, at what stage, and in whose favor case terminated; duration of litigation, relief awarded; and parties to and methods, grounds, and results of appeals. In addition, for the three-judge cases, special data were obtained. The appendix sets forth the manual of instructions for field workers and sample record forms.

The resulting two hundred-odd pages of detailed charts, tables and

<sup>5</sup> P. 15.

findings present not a thesis but a transcript. Based upon extensions of methods first worked out by various law schools in similar studies of state courts in Connecticut, Maryland, Ohio and West Virginia, the report is still frankly experimental. "In so far as this study discloses a lack of significance in any of the purely quantitative results obtained; it may be looked upon as a contribution to our knowledge of the practical limitations upon statistical analysis in the field of legal administration."<sup>6</sup> While hoping that the mass statistics may provide reliable facts regarding court activities, which, so far as they go, may be used to verify, support, disprove or suggest general hypotheses, the authors recognize that "facts in themselves do not prove what should be the policy of law administration or the direction of reform therein. Their function is but to cast light upon the factors which should shape the rules of policy."<sup>7</sup> Substantially, the only recommendations relate to jury waiver, summary judgments, discovery before trial, and improved methods of reporting judicial statistics to the Department of Justice.

A few of the findings of general interest follow: During the year covered, about three-fifths of the civil litigation in the lower federal courts consisted of government cases in which the United States was a party; about one-fifth were private cases dealing with federal questions; and another one-fifth were private cases based on diversity of citizenship. Although the repeal of the Eighteenth Amendment has since eliminated a large part of the government cases, the report surmises that government cases arising under the New Deal legislation may more than take their place. Certainly, "the number of federal questions has been constantly increasing as a result of the large number of matters being brought under the control of the federal government."<sup>8</sup> As to diversity of citizenship cases, "it is interesting to note that a large number—well over half and approaching three-quarters—involve foreign corporations doing business within the state, and also that a very large proportion of all cases are simple tort, contract and negligence cases, cases of the type normally heard in the state courts."<sup>9</sup> Of the 9,852 cases terminated in the thirteen districts in that one year, only 325, or 3.3%, were by verdict of a jury; 2,674, or 27.2%, were terminated by decision of a court; a negligible number by decision of a referee; 2,760, or 28%, by default, consent, stipulation or compromise; and 4,057, or 41.2%, by dismissal, discontinuance, withdrawal, nonsuit or remand to state court. The detailed variations and explanations of these and many other groups of figures make a significant commentary upon the work of the federal courts.

<sup>6</sup> P. 27.

<sup>8</sup> P. 18.

<sup>7</sup> P. 17.

<sup>9</sup> P. 18.

That this study will influence the Supreme Court's pending revision<sup>10</sup> of the rules of practice for the lower federal courts is assured by the fact that several of the men who took part in the preparation of the study are now assisting the Court as members of the advisory committee appointed last June to recommend a tentative draft of the proposed regulations. These include Dean Charles E. Clark, Yale Law School, and Professors Edmund M. Morgan, Harvard Law School, and Edson R. Sunderland, University of Michigan Law School.

The values of this Study of the Business of the Federal Courts lead one to hope that the American Law Institute will extend its functions beyond the writing of Restatements of the rules of the various branches of the substantive law, so as to embrace further investigations of the characteristics and consequences of the law in action.

M. T. VAN HECKE.

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<sup>10</sup> See Edson R. Sunderland, *The Character and Extent of the Rule-making Power Granted to the U. S. Supreme Court and Methods of Effective Exercise*, 21 A. B. A. JOUR. 404 (1935).

